COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

FITCHBURG GAS AND ELECTRIC LIGHT COMPANY) D.T.E. 00-66

STANDARD OFFER FUEL INDEX ADJUSTMENT)

REPLY COMMENTS

OF

FITCHBURG GAS AND ELECTRIC LIGHT COMPANY

INTRODUCTION

On September 27, 2000, Fitchburg Gas and Electric Light Company ("FG&E") participated in a technical conference at the offices of the Department of Telecommunications and Energy ("Department") in Boston. The conference was held in order for the Department, the Office of Attorney General ("Attorney General") and the Division of Energy Resources ("DOER"), among others, to receive information relative to FG&E's request to implement a surcharge in order to recover costs under its Standard Offer Service Fuel Index Adjustment mechanism ("Fuel Index Adjustment"). See Letter (M. Collin (Unitil) to Department), dated August 1, 2000 ("Fuel Trigger Notification")); Letter (S. J. Mueller (LLG&M) to Department), dated August 30, 2000. The Fuel Index

Adjustment is authorized pursuant to, inter alia, the Company's Standard Offer Service tariff, M.D.T.E. No. 44.

As part of the Department's review of the Company's request, the Department directed that anyone interested in the proceeding should file comments with the Department on October 10, 2000. On October 10, 2000, the Attorney General and DOER, among others, filed comments. This memorandum responds to those comments.

ANALYSIS

1. THE FUEL INDEX ADJUSTMENT IS A SURCHARGE TO THE STANDARD OFFER RATE AND NOT SUBJECT TO THE RATE CAP UNDER G.L. 1997, CH. 164.

The Attorney General claims that the Department should reject FG&E's position that the implementation of the Fuel Index Adjustment complies with the rate reduction provisions of G.L. c. 164, sec. 1B(b). AG Comment at 2. The Attorney General asserts that the Department should immediately initiate a proceeding to carry out the inquiry mandated by G.L. c. 164, sec. 1G(c)(3), (4) (requiring the Department to assist any electric company unable to meet the statutory rate reduction of 15 percent off the benchmark 1997 rate). AG Comment at 2-4.

The Company disagrees. The implementation of the Fuel Index Adjustment does not reduce the 15 percent rate reduction mandated under the Act. FG&E's implementation of the Fuel Index Adjustment, as a surcharge, is consistent with FG&E's Plan, consistent with Stat. 1997, ch. 164, the 1997 Electric Industry Restructuring Act ("the Act"), and completely permitted under FG&E's approved standard offer tariff. See DOER Comments at 4(agreeing that extraordinary fuel costs are "outside the economic value of the 15 percent rate reduction"). The fuel trigger includes a bandwidth established by the fuel index, so it operates differently from the previous Fuel Cost Adjustment, but it explicitly provides the wholesale supplier contractual assurance of recovery in the event of extraordinary increases in fuel costs. In this way, the average retail standard offer price is not burdened by a hypothetical premium to guard against fuel price risk.

As provided in FG&E's tariff, the Fuel Index Adjustment is used to adjust standard offer rates through a uniform cents-per-kilowatthour surcharge when market fuel prices exceed the Fuel Trigger Point. Pursuant to FG&E's standard offer service tariff and the Department-approved wholesale power contract with Constellation Power Source ("Constellation"), all incremental revenues received from ratepayers as a result of the fuel index adjustment mechanism are credited to Constellation. It is indisputable that the

Department approved the wholesale power supply agreement with Constellation in Fitchburg Gas and Elec. Light Co., D.T.E. 98-120 (1998).

2. ASSUMING ARGUENDO MATERIALITY, THE COMPANY *HAS* FULLY MITIGATED ITS TRANSITION COST

The Attorney General and DOER argue that the Department should undertake an investigation to ensure itself that each of the distribution companies have completely mitigated its transition cost. AG Comment at 6; DOER Comments at 5. FG&E has a two-prong response.

First, it is true that the Department has a continuing responsibility to ensure itself of full transition cost mitigation. However, this regulatory purview is completely separate and independent from FG&E's request to implement the Fuel Index Adjustment. The Fuel Index Adjustment is not part of transition cost, is not subject to the rate cap, is consistent with the Act, was approved by tariff, was part of the Company's approved Restructuring Plan, and is embodied in a private contract (approved by the Department) between the Company and Constellation. The Fuel Index Adjustment is a *surcharge* on the standard offer rate.

Second, assuming arguendo the Attorney General's assertion that the mitigation efforts relative to transition cost are material to implementation of the Fuel Index Adjustment, the Company has taken and effected every mitigation step since 1998 set forth in its approved Plan. FG&E completed the divestiture of its share in the New Haven Harbor Station to United Illuminating (Fitchburg Gas and Elec. Light Co., D.T.E. 98-121), its sale of all power entitlements to Select Energy (Fitchburg Gas and Elec. Light Co., D.T.E. 99-58), and its divestiture of Millstone Unit 3 is currently pending (Western Mass. Elec. Co., D.T.E. 00-68). Nothwithstanding, it remains FG&E's position that its mitigation efforts, as comprehensive as they are, are irrelevant to whether implementation of the Fuel Index Adjustment is appropriate.

The Attorney General also presses issues before the Department unrelated to this proceeding: the Seabrook Amortization Surcharge ("SAS"), pending in D.T.E. 99-110, and the Attorney General's calculation of 1998 return on equity("ROR"). AG Comments at 2. However, the Hearing Officer clearly instructed the Attorney General at the technical conference held on September 27th that these issues were not relevant to the instant inquiry. Pursuant to the Hearing Officer's ruling, FG&E did not answer the Attorney General's requests relative to these issues. See FG&E Responses to Information Requests, October 11, 2000. In point of fact, these issues *are* irrelevant to the Department's analysis of the Fuel Index Adjustment, the role of the Fuel Index Adjustment relative to the economic value of the statutory rate reduction, and the legal and policy implications that the Fuel Index Adjustment invokes for distribution companies and their wholesale standard offer suppliers. Therefore, FG&E respectfully

requests that the Department dismiss the Attorney General's assertion that the SAS or the 1998 ROR are relevant to the implementation of the Fuel Index Adjustment.

3. THE FUEL INDEX ADJUSTMENT IS A MECHANISM TO TRACK INFLATIONARY EFFECTS ON FUEL COSTS

The Act requires that the Company's rates be capped by an inflation factor, using a benchmark of rates as of August 1997. It is the Company's position, consistent with that expressed by the other distribution companies in D.T.E. 00-67 and D.T.E. 00-70, that the extraordinary impact of fuel cost is intended to be measured by the Fuel Index Adjustment. The Department approved not only FG&E's Fuel Trigger as part of its Restructuring Plan as consistent with the Act, it also approved the mechanism for Massachusetts Electric Company, Boston Edison Company, Cambridge Electric Light Company, and Commonwealth Electric Company.

There are two points to be made here. First, if the Fuel Index Adjustment were unable to be implemented because, fuel cost was part of the benchmark 1997 rate, then the Department's order approving the Fuel Index Adjustment as part of each of these company's restructurings was hollow. However, the Orders of the Department do not and should not contain provisions that are intended to be ineffectual.

Second, it is without contest that the Department approved the reasonableness of the mechanism. If FG&E were unable to contemporaneously recover the Fuel Index Adjustment from ratepayers, FG&E must track these amounts for later recovery. The effect of this tracking means that recovery of these amounts will ultimately rest on future generations of FG&E ratepayers. Such a result would violate the well-established policy of avoiding intergenerational inequity through rates (e.g. today's ratepayers see a rate reduction at the expense of future ratepayers).

Should the Department find, contrary to FG&E's position, that the Fuel Index Adjustment is inextricably linked with, and prohibited by, the economic value of the rate reduction mandated by the Act, FG&E believes that the Department should implement the Fuel Index Adjustment under its authority to make adjustments based on inflationary impact. The Department has significant latitude in determining the applicable measures of inflation:

The calculation and implementation of the rate reduction and the inflation cap shall be subject to adjustment, review, and approval in accordance with the rules and regulations promulgated by the [D]epartment, which shall require that, the economic value of the rate reduction required under this section, be maintained during the standard service transition period."

G.L. c. 164, sec. 1B(e). With this statutory authority, the Fuel Index Adjustment is completely within the Department's discretion.

4. THE COMPANY WILL DISCUSS WITH THE DEPARTMENT AND ATTORNEY GENERAL THE ISSUE OF LEVELIZED BILLING ADJUSTMENTS AND A UNIFORM FUEL INDEX ADJUSTMENT

The Attorney General states that a levelized billing adjustment should be made to FG&E's customers for at least 45 days after the increase attributable to the Fuel Index Adjustment. By response FG&E states that it already makes such adjustments available to its residential customers. This option allows residential customers to make levelized payments instead of experiencing large fluctuations due to higher heating bills in the winter. The Company does not offer this service to C&I customers due to the complexity of estimating individual C&I bills, the potentially significant impact on Company cash flows and risk of collection. The Attorney General also urges the Department to investigate a uniform Fuel Index Adjustment for implementation by each company. AG Comment at 7. FG&E is willing to work with this idea so long as such an investigation did not delay the current request and did not increase deferrals; however, the Attorney General should be aware that each company would bring to such a proceeding its individual concerns relative to its particular supplier(s) agreement(s).

CONCLUSION

Wherefore, for all the reasons set forth in these comments, Fitchburg Gas and Electric Light Company respectfully requests that the Department of Telecommunications and Energy approve its request to implement a Fuel Index Adjustment as set forth in M.D.T.E. No. 44 and in the Department-approved contract with Constellation Power Source.

Respectfully submitted,

fitchburg gas and electric light company

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